



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2018-0736]

RIN 1625-AA00

Safety Zones; Coast Guard Sector New Orleans Annual and Recurring Safety Zones

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend its safety zone regulations for annual events in Coast Guard Sector New Orleans' area of responsibility. This proposed rule would add four new recurring safety zones and amend the location or dates for two events already listed in the table. This action is necessary to protect spectators, participants, and vessels from the hazards associated with annual marine events. This proposed rulemaking would prohibit entry into the safety zones during the events unless authorized by the Captain of the Port Sector New Orleans or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2018-0736 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY**

INFORMATION section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Commander Benjamin Morgan, Sector New Orleans, U.S. Coast Guard; telephone 504-365-2281, email Benjamin.P.Morgan@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port Sector New Orleans
DHS	Department of Homeland Security
FR	<i>Federal Register</i>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

The Captain of the Port Sector New Orleans (COTP) proposes to amend Table 5 of 33 CFR 165.801 to update the table of annual firework displays and other marine events in Coast Guard Sector New Orleans. The current list of annual and recurring safety zones in Sector New Orleans is published in Table 5 of 33 CFR 165.801. That most recent table was created through the interim final rule published on April 22, 2014 (79 FR 22398). The current Table 5 in 33 CFR 165.801 needs to be amended to include new safety zones expected to recur annually and provide new information on two existing safety zones.

The proposed annually recurring safety zones are necessary to provide for the safety of life on navigable waters during marine events. Based on the nature of these marine events, large numbers of participants and spectators, and locations of the events,

the COTP has determined that the events listed in this proposed rule could pose a risk to participants or waterway users if the normal vessel traffic were to interfere with the events. Possible hazards include risks of injury or death from near or actual contact among participant vessels and spectators or mariners traversing through the safety zones. In order to protect the safety of all waterway users, including event participants and spectators, this proposed rule would establish safety zones for the time and location of each marine event.

This purpose of this proposed rulemaking is to ensure the safety of vessels on the navigable waters in the safety zones during the scheduled events. Vessels would not be permitted to enter the safety zone unless authorized by the COTP or a designated representative. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The COTP proposes to amend its safety zone regulations for annual events in Coast Guard Sector New Orleans listed in Table 5 of 33 CFR 165.801. From time to time this section needs to be amended to properly reflect recurring safety zones in Sector New Orleans' area of responsibility. This rule would add four new recurring safety zones and amend the location or dates of two safety zones already listed in the current table. Other than the described changes, the regulations of 33 CFR 165.801 and other provisions in Table 5 of §165.801 would remain unchanged.

The Coast Guard proposes to revise regulations in Table 5 of 33 CFR 165.801 by adding four new safety zones. The safety zones being added to Table 5 are below:

Date	Sponsor/name	Sector New Orleans	Safety zone
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		location	
Saturday before Labor Day	Baton Rouge Paddle Club and Muddy water Paddle Co./ Big River Regional	Baton Rouge, LA	Mississippi River from mile marker 215 to 230.4, Baton Rouge, LA
July 4th	L'Auberge Casino Baton Rouge / July 4th Celebration	Baton Rouge, LA	Mississippi River from mile marker 216.0 to 217.5, Baton Rouge, LA
July 4th	Madisonville Old Fashion 4th of July	Madisonville, LA	Tchefuncte River, at approximate position 30°24'11.63"N 090°09'17.39W, in front of the Madisonville Town Hall.
Weekend before July 4th	Mandeville July 4th Celebration	Mandeville, LA	Approximately 600' off the shore of the Mandeville Lakefront 30 21' 12.03" N 90 04' 28.95" W

The Coast Guard also proposes to revise regulations in Table 5 of 33 CFR 165.801 by amending two existing safety zones listed in the table. The first safety zone to be amended is titled as St. John the Baptist Parish Independence Celebration Fireworks. This safety zone is currently listed to occur at the location of mile marker (MM) 175 to MM 176 on the Lower Mississippi River, above Head of Passes, Reserve, LA. This location contains a typo, which the Coast Guard proposes to amend to reflect the correct location in Reserve, LA. The second safety zone to be amended is titled as Independence Day Celebration, Main Street 4th of July (Fireworks Display). The date for this safety zone is currently listed as 4th of July. The Coast Guard proposes to amend the date format to conform to the format of other dates listed in the table. The proposed amendments are below:

Date	Sponsor/name	Sector New Orleans location	Safety zone
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2. July 3	St. John the Baptist Parish Independence Celebration Fireworks	Reserve, LA	Mississippi River from mile marker 137.5 to 138.5, Reserve, LA
5. July 4	Independence Day Celebration, Main Street 4th of July (Fireworks Display)	Morgan City, LA	Morgan City Port Allen Route mile marker 0.0 to 1.0, Morgan City, LA.

The proposed amendments to these safety zones are necessary to ensure the safety of vessels, spectators, and participants during annual events taking place on or near the navigable waters in Sector New Orleans' area of responsibility. Although this proposed rule would be in effect year-round, the specific safety zones listed in Table 5 of 33 CFR 165.801 would only be enforced during a specified period of time coinciding with the happening of the annual events listed. In accordance with the regulations listed in 33 CFR 165.801(a)-(d), entry into these safety zones would be prohibited unless authorized by the COTP or a designated representative. The regulatory text of the proposed updates to Table 5 of §165.801 appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to

control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and duration of the safety zones. These safety zones are limited in size and duration, and are usually positioned away from high vessel traffic zones. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zones, and the rule would allow vessels to seek permission to enter the zones.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the proposed safety zones may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies

and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this

proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination that this proposed action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of safety zones limiting access to certain areas in Sector New Orleans' area of responsibility.. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacyNotice>.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a

final rule is published.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the U.S. Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. In §165.801, revise Table 5 to read as follows:

TABLE 5 OF §165.801—SECTOR NEW ORLEANS ANNUAL AND RECURRING SAFETY ZONES

Date	Sponsor/name	Sector New Orleans location	Safety zone
1. Monday before Mardi Gras	Riverwalk Marketplace/Lundi Gras Fireworks Display	Mississippi River, New Orleans, LA	Mississippi River mile marker 93.0 to 96.0, New Orleans, LA.
2. July 3rd	St. John the Baptist/Independence Day celebration	Mississippi River, Reserve, LA	Mississippi River mile marker 137.5 to 138.5, Reserve, LA.
3. July 4th	Riverfront Marketing Group/Independence Day Celebration	Mississippi River, New Orleans, LA	Mississippi River mile marker 94.3 to 95.3, New Orleans, LA.
4. July 4th	Boomtown Casino/Independence	Harvey Canal,	Harvey Canal mile

	Day Celebration	Harvey, LA	marker 4.0 to 5.0, Harvey, LA.
5. July 4th	Independence Day Celebration, Main Street 4th of July (Fireworks Display)	Morgan City, LA	Morgan City Port Allen Route mile marker 0.0 to 1.0, Morgan City, LA.
6. July 4th	WBRZ—The Advocate 4th of July Fireworks Display	Baton Rouge, LA	In the vicinity of the USS Kidd, the Lower Mississippi River from mile marker 228.8 to 230.0, Baton Rouge, LA.
7. The Saturday before July 4th or on July 4th if that day is a Saturday	Independence Day Celebration/Bridge Side Marine	Grand Isle, LA	500 Foot Radius from the Pier located at Bridge Side Marine, 2012 LA Highway 1, Grand Isle, LA (Lat: 29°12'14" N; Long: 090°02'28.47" W).
8. 1st Weekend of September	LA Shrimp and Petroleum Festival Fireworks Display, LA Shrimp and Petroleum Festival and Fair Association	Morgan City, LA	Atchafalaya River at mile marker 118.5, Morgan City, LA.
9. 1st Weekend in December (Usually that Friday, subject to change due to weather)	Office of Mayor-President/Downtown Festival of Lights	Baton Rouge, LA	Located on Left Descending Bank, Lower Mississippi River north of the USS Kidd, at mile marker 230, Baton Rouge, LA.
10. December 31st	Crescent City Countdown Club/New Year's Celebration	Mississippi River, New Orleans, LA	Mississippi River mile marker 93.5-96.5, New Orleans, LA.
11. December 31st	Boomtown Casino/New Year's Celebration	Harvey Canal, Harvey, LA	Harvey Canal mile marker 4.0 to 5.0, Harvey, LA.
12. July 4th	USS Kidd Veterans Memorial/Fourth of July Star-	Baton Rouge, LA	In the vicinity of the USS Kidd, the

	Spangled Celebration		Lower Mississippi River from mile marker 228.8 to 230.0, Baton Rouge, LA.
13. Saturday before Labor Day	Baton Rouge Paddle Club and Muddy water Paddle Co./ Big River Regional	Baton Rouge, LA	Mississippi River from mile marker 215 to 230.4, Baton Rouge, LA
14. July 4th	L'Auberge Casino Baton Rouge / July 4th Celebration	Baton Rouge, LA	Mississippi River from mile marker 216.0 to 217.5, Baton Rouge, LA
15. July 4th	Madisonville Old Fashion 4th of July	Madisonville, LA	Tchefuncte River, at approximate position 30°24'11.63"N 090°09'17.39W, in front of the Madisonville Town Hall.
16. Weekend before July 4th	Mandeville July 4th Celebration	Mandeville, LA	Approximately 600' off the shore of the Mandeville Lakefront 30 21' 12.03" N 90 04' 28.95" W

Dated: August 10, 2018

K. M. LUTTRELL

Captain, U.S. Coast Guard,

Captain of the Port Sector New Orleans.

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